EXHIBIT 1

Pertinent pages of each of Kuraku Federal Income Tax Returns For 2018, 2019 and 2020

F	_1	11	20		U.	S. Co	rpora	tion I	ncome	e Ta	x R	etur	n				1545-0123
				calend	dar year 2018	or tax ye	ear begin	ning O	ct 1	_, 2018	, endir	g Se	ep 30	, 2	20 19	20	18
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Sig		an	d complete. Declaration	i oi prepa	arer (other than ti	axpayer) is i	pased on all	information	of which prepa	arer has a	any know	rledge.			May the	IRS discuss th	nis return
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Pa	id		Print/Type prepare	r's nam	9	P	reparer's s	ignature			D	ate		Ch	eck X	PTIN	
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SCHEDULE G (Form 1120)

(Rev. December 2011)

Information on Certain Persons Owning the Corporation's Voting Stock

OMB No. 1545-0123

Internal Revenu		▶s	See instructions					
Name			occ mondonons	OII pu	90 2.	Employer	identificat	ion number (EIN)
							_	
	NEW YORK INC.						1957	
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ents	33	Total payments					-						* * *		33	
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Sig	n	and complete. Decla	ration of pr	eparer (other than ta	mined thi expayer) is	s based on a	all information	of which p	reparer l	and stat has any l	tements, a knowledgi	and to the b B.	oest of my	knowle	edge an	d belief, it is true, correct,
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	pare	KIL S JU	JNG,	CPA		KIL S	JUNG,	CPA			05/	15/202	23 self	-empl	oyed]	P01717931
	On	Firm's name		L S. JUNG								F	irm's EIN	►		1360
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SCHEDULE G (Form 1120)

(Rev. December 2011)

Information on Certain Persons Owning the **Corporation's Voting Stock**

OMB No. 1545-0123

Department of the		▶5	► Attach to Form See instructions					
Name			The months and the	on pu		Employer	identifica	tion number (EIN)
KII-RAKII	NEW YORK INC.						L957	
Part I	Certain Entities O columns (i) through as a partnership), to	n (v) below for any fo rust, or tax-exempt o	reign or dome organization th	stic c nat ov	orporation, p vns directly 2	artnership 0% or mo	e K, Qu (includ re, or o	lestion 4a). Complete ling any entity treated wns, directly or centitled to vote (see
(1)	Name of Entity	(ii) Employer Identification Number (if any)	(iii) Type of Ent	ity	(iv) Country of C	Organization	(v) Perce	entage Owned in Voting Stock
7:								
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Part II	Question 4b). Com more, or owns, dire	s and Estates Own plete columns (i) threctly or indirectly, 50 ote (see instructions)	ough (iv) belov)% or more of	v for	any individua	l or estate	that ov), Schedule K, wns directly 20% or s of the corporation's
*	(i) Name of I	ndividual or Estate		(ii) lo	lentifying Number (If any)	(iii) Coun Citizenshi instructi	p (see	(iv) Percentage Owned in Voting Stock
YASUKO N	EGITA			3-94		US		100
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Doc 69-3 Filed 05/25/23 Entered 05/25/23 16:34:30 Case 23-12365-SLM Desc Exhibit Exhibits 1-5 to Declaration Page 6 of 52 OMB No. 1545-0123 Form For calendar year 2020 or tax year beginning Oct 1 ,2020, ending Sep 30 ,20 21 Department of the Treasury ▶ Go to www.irs.gov/Form1120 for instructions and the latest information. Internal Revenue Service B Employer identification number A Check if: Name 1a Consolidated return KU-RAKU NEW YORK INC. 1957 (attach Form 851) TYPE Number, street, and room or suite no. If a P.O. box, see instructions. b Life/nonlife consoli-C Date incorporated OR dated return . 3952 BROADWAY 10/16/2018 Personal holding co. PRINT City or town, state or province, country, and ZIP or foreign postal code D Total assets (see instructions) (attach Sch. PH) . Personal service corp. NEW YORK NY 10032 \$ 164,201 (see instructions) . E Check if: (1) Initial return (2) Final return Schedule M-3 attached (3) Name change (4) Address change 0 Gross receipts or sales 1a Returns and allowances . 0 Balance. Subtract line 1b from line 1a C 1c 2 Cost of goods sold (attach Form 1125-A) . . . 2 0 3 Gross profit. Subtract line 2 from line 1c . . . 3 Dividends and inclusions (Schedule C, line 23) 4 5 Interest 5 6 Gross rents 6 7 7 Gross royalties 8 Capital gain net income (attach Schedule D (Form 1120)) . . . 8 9 Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797) . . . 10 10 0 11 Total income. Add lines 3 through 10 11 12 Compensation of officers (see instructions-attach Form 1125-E) 12 Deductions (See instructions for limitations on deductions.) 13 Salaries and wages (less employment credits) 14 Repairs and maintenance . . 14 15 Bad debts 15 16 16 50 17 Taxes and licenses . . . 17 18 18 Interest (see instructions) 19 19 Charitable contributions 4,102 20 Depreciation from Form 4562 not claimed on Form 1125-A or elsewhere on return (attach Form 4562) 20 21 21 22 Advertising 22 23 Pension, profit-sharing, etc., plans 23 24 Employee benefit programs 24 25 Reserved for future use 25 Other deductions (attach statement) . Other Deductions Statement 16,634 26 26 27 20,786 Total deductions. Add lines 12 through 26. 27 28 -20,786Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11. 29a b Add lines 29a and 29b . 29c C -20,78630 Taxable income. Subtract line 29c from line 28. See instructions . . . 30 Refundable Credits, and 31 0 Total tax (Schedule J, Part I, line 11) 31 32 2020 net 965 tax liability paid (Schedule J, Part II, line 12) 32 33 Total payments, credits, and section 965 net tax liability (Schedule J, Part III, line 23) . 33 0 34 Estimated tax penalty. See instructions. Check if Form 2220 is attached 34 35 35 Amount owed. If line 33 is smaller than the total of lines 31, 32, and 34, enter amount owed

Sign Here) _	anature of officer	Date	PRESIDENT	May the IRS discuss this return with the preparer shown below? See instructions. Yes N
Paid Prepa		Print/Type preparer's name KIL S JUNG, CPA	Preparer's signature	1 1 mg Dat	Check X if /11/2022 self-employed P01717931
Use C		Firm's name ► KIL S. JUNG,	CPA /		Firm's EIN ▶
USE C	illy	Firm's address ▶ 16 W 32ND ST,	STE 1104 NEW	YORK NY 10001	Phone no. (212)714-1772

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct,

Overpayment. If line 33 is larger than the total of lines 31, 32, and 34, enter amount overpaid .

and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Enter amount from line 36 you want: Credited to 2021 estimated tax ▶

0

36

Refunded ▶

36

37

Sign

rax,

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Exhibit Exhibits 1-5 to Declaration Page 7 of 52

Information on Certain Persons Owning the

Corporation's Voting Stock

(Rev. December 2011) ► Attach to Form 1120. Department of the Treasury Internal Revenue Service ► See instructions on page 2. OMB No. 1545-0123

Name

SCHEDULE G (Form 1120)

Employer identification number (EIN)

KU-RAKU NEW YORK INC.						195	7
Part I Certain Entities C columns (i) through as a partnership), t	h (v) below for any fo trust, or tax-exempt o	reign or dome organization th	stic o	corporation, p wns directly 2	partnership 20% or mo	le K, C (inclu ere, or	Question 4a). Complete
(i) Name of Entity	(ii) Employer Identification Number (if any)	(iii) Type of Ent	tity	(iv) Country of	Organization	(v) Per	centage Owned in Voting Stock
	2						
Part II Certain Individual	s and Estates Owni	ng the Corno	ratio	n's Votina S	tock (For	m 112	0. Schedule K
Question 4b). Com more, or owns, dire	plete columns (i) thro	ough (iv) below % or more of	v for a	any individua	I or estate	that o	wns directly 20% or so of the corporation's
(i) Name of I	ndividual or Estate		(ii) Id	entifying Number (if any)	(iii) Count Citizenship instructio	(see	(iv) Percentage Owned in Voting Stock
YASUKO NEGITA					US		100
							9
							

EXHIBIT 2

Minutes of the First Meeting of the Board of Directors of Kuraku

Minutes of First Meeting of Board of Directors of

Ku-raku New York Inc.

The board of directors of Ku-raku New York Inc. held its first meeting on October 20, 2018, at 133 West 3rd Street New York, NY 10012.

The following directors, constituting a quorum of the full board, were present at the meeting:

Yasuko Negita

Miho Maki

The chairperson announced that the meeting was held pursuant to written waiver of notice signed by each of the directors. Upon a motion duly made, seconded, and unanimously carried, the waiver was made a part of the records of the meeting. It now precedes the minutes of this meeting in the corporate records book.

Articles of Incorporation

The chairperson announced that the articles of incorporation or similar organizing instrument of this corporation was filed with the office of NYS Department of State on October ____16____, 2018.

RESOLVED, that the secretary of this corporation is directed to see that a copy of the articles of incorporation or similar organizing instrument of this corporation, file-stamped or certified by the secretary of state or other appropriate state office or official, is kept at the corporation's principal office.

Bylaws

There was then presented to the meeting for adoption a proposed set of bylaws of the corporation. The bylaws were considered and discussed and, on motion duly made and seconded, it was unanimously

RESOLVED, that the bylaws presented to this meeting be and hereby are adopted as the bylaws of the corporation;

RESOLVED FURTHER, that the secretary of this corporation is directed to see that a copy of the bylaws is kept at the corporation's principal office.

Election of Officers

The chairperson then announced that the next item of business was the election of officers. Upon motion, the following persons were unanimously elected to the offices shown after their names:

Miho Maki

Secretary

Yasuko Negita

President

Yasuko Negita

Treasurer

Each officer who was present accepted his or her office. Thereafter, the president presided at the meeting as chairperson of the meeting, and secretary the of the corporation acted as secretary of the meeting.

Principal Office

After discussion as to the exact location of the corporation's principal office for the transaction of business in the county named in the bylaws, upon motion duly made and seconded, it was

RESOLVED, that the principal office of this corporation shall be located at 3954 Broadway New York, NY 10032.

Bank Account

Upon motion duly made	and seconded, it was
RESOLVED, that the fu	nds of this corporation shall be deposited with
<u>Chase</u>	Bank.

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RESOLVED FURTHER, that the treasurer of this corporation be and hereby is authorized

and directed to establish an account with said bank and to deposit the funds of this

corporation therein.

RESOLVED FURTHER, that any officer, employee, or agent of this corporation be and is

authorized to endorse checks, drafts, or other evidences of indebtedness made payable to

this corporation, but only for the purpose of deposit.

RESOLVED FURTHER, that all checks, drafts, and other instruments obligating this

corporation to pay money shall be signed on behalf of this corporation by any of the

following persons:

Yasuko Negita

Miho Maki

RESOLVED FURTHER, that said bank be and hereby is authorized to honor and pay all

checks and drafts of this corporation signed as provided herein.

RESOLVED FURTHER, that the authority hereby conferred shall remain in force until

revoked by the board of directors of this corporation and until written notice of such

revocation shall have been received by said bank.

RESOLVED FURTHER, that the secretary of this corporation be and hereby is authorized

to certify as to the continuing authority of these resolutions, the persons authorized to sign

on behalf of this corporation, and the adoption of said bank's standard form of resolution,

provided that said form does not vary materially from the terms of the foregoing

resolutions.

Stock Ownership

Upon motion duly made and seconded, it was

RESOLVED, that upon the payment in full of the stock subscription price as set forth in the

Shareholder's Agreement, one hundred (100) shares of the capital stock of the Corporation

shall be issued and outstanding and shall be held, directly and/or beneficially, as follows:

Yasuko Negita:

ninety (90) shares; and

Case 26-12365 SL2M 06 Dolc 6973 V Filed 05/25/233-2Enteried 05/25/233 16:34:35 of Desc Exhibit Exhibits 1-5 to Declaration Page 12 of 52

Miho Maki

ten (10) shares

The remaining one hundred (100) shares of the capital stock of the Corporation shall

remain unissued.

Corporate Seal

The secretary presented to the meeting for adoption a proposed form of seal of the

corporation. Upon motion duly made and seconded, it was:

RESOLVED, that the form of corporate seal presented to this meeting be and hereby is

adopted as the seal of this corporation, and the secretary of the corporation is directed to

place an impression thereof in the space next to this resolution.

Corporate Certificates

The secretary then presented to the meeting proposed director, sponsor, membership, or

other forms of corporate certificates for approval by the board. Upon motion duly made

and seconded, it was

RESOLVED, that the form of certificates presented to this meeting are hereby adopted for

use by this corporation and the secretary is directed to attach a copy of each form of

certificate to the minutes of this meeting.

[End option]

Since there was no further business to come before the meeting, on motion duly made and

seconded, the meeting was adjourned.

Dated: October 20, 2018

Signature

Miho Make, Secretary

EXHIBIT 3

Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return filed by Kuraku



New York State Department of Taxation and Finance

NYS-45 WEB

(05/23) V14

Quarterly Combined Withholding, Wage Reporting, And Unemployment Insurance Return

	eference these num	bers in	all corres	ponde	ence:			ne box to indicate				
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	ithholding entification number		1957				1	2	3	4	YY	
						Do you	offer depend	dent health insura	ance ben	efits to any empl	loyee?	Yes No 🗸
	mployer legal name U-RAKU NEW YOR					if seaso	nal employ	er, mark an X in	the box			
10	D-TORIO NEW TOR	VIV IIVO										
Er	Nu nter the number of full		of employe		ered employees	a. Fir	st month	b. Second mo	onth	c. Third month		
wh	no worked during or re e 12th day of each mo	eceived	pay for the	week	that includes		11		9		7	Disaster relief
P	art A – Unemploy	ymen	t insurar	ice (l	JI) information		Part I	3 –Withholdi	ing tax	(WT) inform	nation	
1.	Total remuneration	paid thi	is quarter .		50	,830.00	12. N	ew York State tax	x withhel	d		1,868.35
2.	Remuneration paid	this qu	arter to				13. N	ew York City tax	withheld			1,134.55
	in excess of the UI since January 1			Г		0.00						
3.	Wages subject to c							onkers tax withhe	eld			0.00
	(subtract line 2 fron)		50	,830.00		otal tax withheld dd lines 12, 13, a	and 14) .			3,002.90
4.	UI contributions due UI rate		4.025	%	2	,045.91		T credit from pre uarter's return (se				0.00
5.	Re-employment ser (multiply line 3 x .00					38.12	_	orm NYS-1 paym	,	hose and the same of the same		
	(manapiy iiie 3 x .00	,or 5)				30.12		r quarter				3,122.86
6a	. Interest on contrib	utions					18. To	otal payments	4.71			2 422 96
6b	 UI previously unde interest 					0.00		dd lines 16 and 1				3,122.86
								otal Wt amounts eater than line 18				0.00
7.	Total of lines 4, 5, 6	a and 6	6b		2	,084.03	20 To	tal WT overpaid	(if line 1	R is		
8.	Enter UI previously of	overpai	d	eres [0.00	gr	reater than line 18 ere and mark an 1	5, enter d	difference		119.96
9.	Total UI amounts of is greater than line to	due (if 8, entei	line 7 r difference	[2	,084.03		Apply to outstand				o next quarter
10.	. Total UI overpaid (i than line 7, enter ti	if line 8	is greater							(withinop	unig tax
	than line 7, enter ti	пе ате	rence)					otal payment du dd lines 9 and 19				2,084.03
	* A	n ove	erpayme	nt of	either tax canr	not be us	sed to of	fset the amo	unt du	ie on the oth	er tax.	
					Part C -	Wage R	eporting	Summary				
С	Total UI total remune wages paid this quar	eration/	gross		F.0	,830.00	****					40
	wages paid triis quai	rter			50	,630.00	iotai nu	ımber of employe	ees			13
D	Total gross wages of	r distrib	oution		50	,829.61	E Tota	al tax withheld				3,002.90
Si	gn your return: I ce	rtify tha	t the inform	nation o	on this return and ar	ny attachme	ents is to the	e best of my kno	wledge a	and belief true, c	orrect, an	d complete.
Та	xpayer's signature					Signer'	s name			Title		
	Date			Teler	phone number							
	04/26	6/2022	00:39:54									

Withholding identification number

1957

Part D-Form NYS-1 corrections/additions

Web filed not applicable

Part E-Change of business information

	of databol all of part of your securious.	Yes ✓ ◀ No Part			
	Preparer's signature	Telephone number	Date	Mark an X if	Preparer's SSN or PTIN
Paid				self-employed	
reparer's ise	Preparer's firm name (or yours, if self-employed)	Address			Preparer's EIN
ayroll servic	e namo			Payroll ser	vice's EIN
Jnemploym	nent insurance (UI) payment details	(Account saved			
Payment date 05/02/2022	1711	Accou	nt type ess checkir	ıg	
Bank name JPMORGAN	CHASE BANK, NA	02100	outing number 0021		
Account holder	EW YORK INC	XXXX	nt number X6305		
Amount due (\$) 2,084.03		2,084.	nt amount (\$) 03		
Vithholdin	g tax (WT) payment details	(Account saved			
Payment date		Accou	nt type		
Bank name		Bank r	outing number		
Account holder		Accou	nt number		
Amount due (\$ 3.00		Payme	nt amount (\$)		
ransaction	n details				
Confirmation no			ction date/time		
Submitted by					
YASUKO NE	GITA				

Part C

Employee Wage and Withholding

(05/23) V3

Employer legal name:	Withholding identification number
KU-RAKU NEW YORK INC.	1957

(Showing 1 - 13 of 13 employees)

	Quarterly employee/p	payee wage reporting inform	nation	
Social security number	b Last name, first name, middle initial	c UI total remuneration/gross wages paid this quarter	d Gross wages or distribution (see instructions)	e Total tax withheld
	Candia, Javiar	11,347.82	11,347.82	843.7
	Chinnarach, Narissara	2,342.82	2,342.82	78.9
	Gonzalez, Isaias	11,375.27	11,375.27	846.6
	Jimenez, Luis	1,770.95	1,770.95	124.5
	Kankratoke, Jiaporn	1,962.17	1,962.17	42.0
	Krompraput, Sarinya	595.82	595.82	18.9
	Mckee, Yuko	7,638.04	7,638.04	486.3
	Muennoi, Charanya	3,294.74	3,294.74	192.1
	Saennangchon, Nattaya	1,255.30	1,255.30	45.5
	Shinagawa, Susumu	7,636.58	7,636.58	284,
	Sittiboonyawong, Wipada	237.98	237.98	5.5
	Srinitipornkul, Nattacha	789.84	789.84	33.8
	Suwannach, Wimolwan	582.28	582.28	0.3
			Ω	

New York State Department of Taxation and Finance

DLN: 24926233785

Quarterly Combined Withholding, Wage Reporting, And Unemployment Insurance Return

NYS-45 WEB

Re	eference these number	s in all corres	spondence:	Mark ar	X in only on	e box to indicate the d	quarter (a separate	
	Employer gistration number	580	0	Jan 1 - Mar 31	Apr 1	leted for each quarter July 1 - Sep 30	Oct 1 - Dec 31 Year	. 22
	thholding	1957			1	2 3	4	YY
IGE	entification number	1937		Do you	offer depend	ent health insurance b	enefits to any employ	ee? Yes No 🗸
	nployer legal name:			lf seaso	nal employ	er, mark an X in the b	ox	
KI	J-RAKU NEW YORK I	NC.						
wh	Numb ter the number of full–tim o worked during or receive 12th day of each month	ved pay for the	ne covered employees	a. Fir	st month	b. Second month	c. Third month	Disaster relief
Pa	art A – Unemploym	ent insurar	nce (UI) information	1	Part B	−Withholding ta	ax (WT) informat	tion
1.	Total remuneration paid	d this quarter .		67,954.00	12. Ne	w York State tax with	neld	2,213.88
2.	Remuneration paid this	quarter to			13. Ne	w York City tax withhe	eld	1,354.74
	since January 1			17,966.00	14. You	nkers tax withheld		0.00
3.	Wages subject to contr (subtract line 2 from lin	ibution e 1)		19,988.00		al tax withheld Id lines 12, 13, and 14)	3,568,62
4.	UI contributions due UI rate	4.025	%	2,012.02	16. WT	credit from previous		
5.	Re-employment service (multiply line 3 x .00075			37.49	17. For	a rter's re turn (see ins rm NYS-1 payments r	made	0.00
	lateraction and the fi-	•			for	quarter		3,568.62
6a 6b	 Interest on contributio UI previously underpai 		*****			al payments Id lines 16 and 17)		3,568.62
	interest			0.00	19. Tot	al Wt amounts due	(if line 15 is	
7.	Total of lines 4, 5, 6a ar	nd 6b	contract (2,049.51		ater than line 18, ente		0.00
8.	Enter UI previously over	paid	****	0.00	gre	ater than line 15, enter e and mark an X in 20	r difference	0.00
9.	Total UI amounts due is greater than line 8, et)	2,049.51		pply to outstanding	20b. (Credit to next quarter withholding tax
10.	Total UI overpaid (if lin than line 7, enter the o							valued and the same of the sam
	than line 1, enter the t	imerence ;			21. Tot	tal payment due Id lines 9 and 19)		2,049.51
	* An o	verpayme	nt of either tax car	not be us	sed to off	set the amount o	due on the other	r tax.
			Part C	-Wage R	eporting S	Summary		
С	Total UI total remunerati wages paid this quarter		(67,954.00	Total nur	nber of employees	***************************************	17
D	Total gross wages or dis	stribution	6	67,953.82	E Total	tax withheld		3,568.62
Sig	n your return: I certify	that the inform	nation on this return and	any attachm	ents is to the	best of my knowledge	and belief true, corn	ect, and complete.
	cpayer's signature				's name	,	Title	,
	Date		Tolophone must					
		22 14:34:53	Telephone number					

Withholding identification number

1957				

Part D-Form NY8-1 corrections/additions

Web filed not applicable

Part E-Change of business information

	on or transfer an or part or your backings.	Yes ✓ 4 No Part			
if Yes, inc				Mark an V II	Prepared SSN or DTIN
Paid	Preparer's signature	Telephone number	Date	Mark an X if self-employed	Preparer's SSN or PTIN
reparer's ise	Preparer's firm name (or yours, if self -employed)	Address			reparer's EIN
Payroll servi	ce name			Payroll servi	ce's EIN
Jnemployr	nent insurance (UI) payment details	(Account saved 🗸)		
Payment date			nt type		
08/01/2022			ness checki		
Bank name			outing numbe	er	
	CHASE BANK, NA	0210	nt number		
Account holde			nt number		
	EW YORK INC		ent amount (\$	1	
Amount due (\$ 2,049.51)	2,049		,	
2,049.31		, 2,040	.01		
Withholdin	g tax (WT) payment details	(Account saved)		
Payment date		Accou	nt type		
Bank name		Bank	outing numbe	er	
Account holde	r	Accou	nt number		
Amount due (\$	(3)	Paym	ent amount (\$)	
0.00					
Transactio	n details				
Confirmation n	umber	Trans	action date/tin	ne	
2492623378	5	07/20	/2022 02:34	PM	
Submitted by					
YASUKO NI	EGITA				

Part C

Employee Wage and Withholding

(07/22) V3

Employer legal name:	Withholding identification number
KU-RAKU NEW YORK INC.	1957

(Showing 1 - 17 of 17 employees)

Social security number	b Last name, first name, middle initial	c UI total remuneration/gross wages paid this quarter	d Gross wages or distribution (see instructions)	e Total tax withheld
	Gonzalez, Isaias	2,081.45	2,081.45	127.9
	Shinagawa, Susumu	8,934.78	8,934.78	333.2
	Candia, Javiar	9,908.48	9,908.48	272.6
	Saennangchon, Nattaya	4,383.57	4,383.57	152.3
	Mckee, Yuko	7,043.81	7,043.81	382.4
	Kankratoke, Jiaporn	2,101.12	2,101.12	22.7
	Andrade, Vicente	1,331.14	1,331.14	109.9
	Boonlap, Suchada	430.54	430.54	7.1
	Diop, Ablaye	3,762.20	3,762.20	155.9
	Cazares, Arnulfo	2,275.76	2,275.76	181.1
	Kongthoongmon, Autumporn	1,043.00	1,043.00	23.0
	Nathalia, Erika	5,137.91	5,137.91	379.6
	Montalvo, Cristobal	496.81	496.81	1.1:
	Nakatani, Shumma	8,864.35	8,864.35	778.7
	Simachaya, Warancha	1,486.36	1,486.36	102.1
	Trinidad, Duran	5,600.02	5,600.02	467.5
	Ureiro, Victor	3,072.52	3,072.52	70.7
1				

(10/22) V14



New York State Department of Taxation and Finance

Quarterly Combined Withholding, Wage Reporting, And Unemployment Insurance Return

NYS-45 WEB

Ref	ference these numbers in all corre	spondence:	Mark ar	X in only on	e box to indicate the q	juarter (a separate	
	Employer 580	0	return n Jan 1 - Mar 31	Apr 1		-	22
	hholding			1	2 3	4	YY
ider	ntification number		Do you	offer depende	ent health insurance b	enefits to any employe	e? Yes No 🗸
Em	ployer legal name:		If seaso	nal employe	er, mark an X in the bo	ox	
KU-	-RAKU NEW YORK INC.						
who	Number of employ er the number of full-time and part-ti b worked during or received pay for the 12th day of each month.	me covered employees	a, Fir	st month	b. Second month	c. Third month	Disaster relief
116	12th day of each month.						
Pai	rt A – Unemployment insura	nce (UI) information		Part B	-Withholding ta	x (WT) informat	on
1.	Total remuneration paid this quarter	160,	707.00	12. Nev	w York State tax withh	eld	6,518.48
	Remuneration paid this quarter to in excess of the UI wage base			13. Nev	w York City tax withhe	ld	3,207.25
	since January 1	80,	031.00	14. Yor	kers tax withheld		0.00
3.	Wages subject to contribution (subtract line 2 from line 1)	80.	676.00	15. Tota	al tax withheld		
	UI contributions due			(ad	d lines 12, 13, and 14)		9,725.73
	UI rate 4.025	5 % 3,	247.21	16. WT qua	credit from previous arter's return (see inst	r.)	0.00
	Re_employment service fund (multiply line 3 x .00075)		60.51		m NYS-1 payments n		
			00.01		quarter		9,725.73
6a.					al payments d lines 16 and 17)		9,725.73
60.	UI previously underpaid with interest		0.00		al Wt amounts due		.,
7.	Total of lines 4, 5, 6a and 6b	3,:	307.72	gre	ater than line 18, enter	r difference)	0.00
					al WT overpaid (if line		
	Enter UI previously overpaid	www.	0.00		ater than line 15, ente e and mark an X in 20		0.00
9.	Total UI amounts due (if line 7 is greater than line 8, enter difference	e) 3, ;	307.72		oply to outstanding bilities and/or refund.		redit to next quarter thholding tax
10.	Total UI overpaid (if line 8 is greater			III	billides alla/of refulla ,	W	umolding tax
	than line 7, enter the difference) *			21. Tot (add	al payment due d lines 9 and 19)		3,307.72
	* An overpayme	ent of either tax canno	ot be us				
		Part C - V					
	Total UI total remuneration/gross	400	707 00			-	
v	vages paid this quarter	160,	707.00	Total num	ber of employees		18
D T	Total gross wages or distribution	160,	706.68	E Total	tax withheld		9,725.73
Sign	your return: I certify that the infor	mation on this return and any	attachme	ents is to the	best of my knowledge	and belief true, corre	ct, and complete.
	payer's signature		Signer's			Title	
	Dete						
	Date 10/19/2022 00:05:07	Telephone number					

Withholding identification number

1957	

Part D-Form NYS-1 corrections/additions

Web filed not applicable

Part E-Change of business information

	siloi transioi an oi part oi your sociiisos.	Yes ✓ ¶ No						
If Yes, ind	icate if sale or transfer was in Whole or F	Part						
n-:-	Preparer's signature	Telephone number	r Date		Mark an X if	Preparer's SSN or PTIN		
Paid preparer's	- 1.5	Address		5	self=employed	Preparer's EIN		
use	Preparer's firm name (or yours, if self-employed)	Address				Topardi S En		
Payroli servic	ce name	-			Payroll ser	vice's EIN		
Unemployn	nent Insurance (UI) payment details	(Account saved	/)					
Payment date		Acc	ount type					
10/31/2022		Bus	iness chec	cking				
Bank name		Ban	k routing num	iber				
JPMORGAN	CHASE BANK, NA	021	000021					
Account holder			Account number XXXXX1030 Payment amount (\$)					
KU-RAKU N	EW YORK INC							
Amount due (\$)	-						
3,307.72		3,30	3,307.72					
Withholdin	g tax (WT) payment details	(Account saved	7)					
	g tan (***, p.a.)		ount type					
Payment date		7,00	out. typo					
Bank name		Ban	k routing num	ber				
Account holde	r	Acc	ount number					
			1,000	100200				
Amount due (\$	5)	Pay	ment amount	(\$)				
0.00								
Transactio	n details							
Confirmation n	umber	Tran	saction date	/time				
24926321454		10/	19/2022 00:0	05 AM				
Submitted by								
YASUKO NE	EGITA							

Part C

Employee Wage and Withholding

(10/22) V3

Employer legal name:	Withholding identification number
KU-RAKU NEW YORK INC.	957

(Showing 1 - 18 of 18 employees)

		The second secon		
a Social security number	b Last name, first name, middle initial	c UI total remuneration/gross wages paid this quarter	d Gross wages or distribution (see instructions)	e Total tax withheld
	Ureiro, Victor	14,654.95	14,654.95	335.4
	Kongthoongmon, Autumporn	1,570.05	1,570.05	18.3
	Trinidad, Duran	19,932.56	19,932.56	1,670.1
	Shinagawa, Susumu	7,694.60	7,694.60	260.8
	Candia, Javiar	14,126.60	14,126.60	295,9
	Cazares, Arnulfo	16,043.90	16,043.90	1,279.0
	Nakatani, Shumma	11,296.66	11,296.66	915.2
	Saennangchon, Nattaya	2,942.85	2,942.85	57.1
	Mckee, Yuko	7,468.56	7,468.56	436.8
	Simachaya, Warancha	8,463.39	8,463.39	521.8
	Nathalia, Erika	6,452.89	6,452.89	414.2
	Kankratoke, Jiaporn	1,566.36	1,566.36	1.6
	Castro, Randy	1,194.81	1,194.81	41.7
	Kitwikham, Kittiya	141.98	141.98	0.0
	Maki, Miho	18,000.00	18,000.00	1,790.2
	Negita, Masahiko	5,200.00	5,200.00	204.9
	Negita, Yasuko	23,000.00	23,000.00	1,470.7
	Peralta, Ana	956,52	956.52	11.2

2

New York State Department of Taxation and Finance

(01/23) V14

Quarterly Combined Withholding, Wage Reporting, And Unemployment Insurance Return

NYS-45 WEB

	eference these numbers in all corres	pondence:			ne box to indicate th				
	Employer gistration number 580	0	Jan 1 - Mar 31	Apr 1	1 - 🛁 July 1 - 🖟	Oct 1 - Dec 31	16	22	
	ithholding			1	2	3 4		YY	
	entineation number		Do you	offer depend	ent health insurance	e benefits to any e	mployee?	? Yes	No 🗸
	nployer legal name:		If seaso	nal employ	er, mark an X in the	box			
KI	J-RAKU NEW YORK INC.								
En	Number of employe ter the number of full-time and part-tin no worked during or received pay for the	ne covered employees	a. Firs	st month	b. Second month	c, Third mo	nth 16		
	e 12th day of each month,						-10	Disast	er relief
Pa	art A – Unemployment insura	ace (UI) information		Part B	-Withholding	tax (WT) info	rmatio	n	
1.	Total remuneration paid this quarter .	143,	706.00	12. Ne	w York State tax wi	thheld			5,513.58
2.	Remuneration paid this quarter to in excess of the UI wage base			13 . Ne	w York City tax with	nheld			2,854.20
	since January 1	115,	893.00	14. Yo	nkers tax withheld				0.00
3.	Wages subject to contribution (subtract line 2 from line 1)	27,	813.00		tal tax withheld and lines 12, 13, and	14)			8,367.78
4.	UI contributions due UI rate	% 1,	119.47		r credit from previo arter's return (see i				0.00
5.	Re-employment service fund			·	,	,			0.00
	(multiply line 3 x .00075)		20.86		rm NYS-1 payment quarter				8,367.78
6a.		*****			tal payments		_		8,367.78
6b.	. UI previously underpaid with interest		0.00	,	tal Wt amounts du				
7.	Total of lines 4, 5, 6a and 6b	1,	140.33		eater than line 18, e				0.00
0	Enter UI previously overpaid		0.00		tal WT overpaid (if li				
		*****	0.00		re and mark an X in				0.00
	Total UI amounts due (if line 7 is greater than line 8, enter difference	1,	140.33	20a. A	pply to outstanding abilities and/or refur	od		dit to next quiholding tax	
10.	Total UI overpaid (if line 8 is greater than line 7, enter the difference) *.			21 To	tal payment due				
	,				dd lines 9 and 19)				1,140.33
	* An overpayme	nt of either tax cann	ot be us	ed to off	set the amoun	t due on the d	other ta	ax.	
		Part C – V	Vage Re	porting	Summary				
С	Total UI total remuneration/gross wages paid this quarter	143,	706.00	Total nu	mber of employees				19
D	Total gross wages or distribution	143,	706.39	E Total	I tax withheld				8,367.78
Sir	gn your return: I certify that the inform	nation on this return and an	, attaches	nto io to the	host of my knowle	dgo and hallof to		and com-1	-1-
	xpayer's signature	ration on this return and any	Signer		best of my knowled	Title	, correct	, and comple	ete.
	Date 01/12/2023 11:15:24	Telephone number							

Withholding identification number

1957

Part D-Form NYS-1 corrections/additions

Web filed not applicable

Part E-Change of business information

	en of transfer an of part of your backness.	Yes ✓ ◀ No						
If Yes, ind	dicate if sale or transfer was in Whole or	Part						
Paid	Preparer's signature	Telephone number	Date	Mark an X if self-employed	Preparer's SSN or PTIN			
reparer's ise	Preparer's firm name (or yours, if self -employed)	Address		P	reparer's EIN			
Payroll servi	ce name			Payroll service	e's EIN			
Jnemployn	ment insurance (UI) payment details	(Account saved 🗸)					
Payment date		Acco	ınt type					
01/31/2023			ness checki	ing				
Bank name			routing numbe	r				
JPMORGAN	CHASE BANK, NA		00021					
Account holde			Account number XXXXX1030 Payment amount (\$)					
	IEW YORK INC							
Amount due (\$	<u> </u>		-)				
1,140.33		1,14	7.33					
Withholdin	g tax (WT) payment details	(Account saved)					
Payment date		Acco	unt type					
Bank name		Bank	routing numbe	or				
Account holde	r	Acco	unt number					
Amount due (\$	3)	Payn	ent amount (\$)				
0.00								
Transactio	n details							
Confirmation n	umber	Trans	action date/tin	ne				
3492602183	1	01/1	2/2023 11:15	AM				
Submitted by								
YASUKO NE	EGITA							

Part C

Employee Wage and Withholding

(01/23) V3

Employer legal name:	Withholding Identification number
KU-RAKU NEW YORK INC.	1957

(Showing 1 - 19 of 19 employees)

Social security number	b Last name, first name, middle initial	c UI total remuneration/gross wages paid this quarter	d Gross wages or distribution (see instructions)	e Total tax withheld
	Ureiro, Victor	12,636.59	12,636.59	296.17
	Kongthoongmon, Autumporn	1,713.31	1,713.31	7.03
	Castro, Randy	5,088.46	5,088.46	264.85
	Trinidad, Duran	16,223.50	16,223.50	1,344.6
	Negita, Masahiko	8,400.00	8,400.00	321.3
	Negita, Yasuko	18,000.00	18,000.00	1,071.1
	Shinagawa, Susumu	2,932.23	2,932.23	117.3
	Maki, Miho	13,500.00	13,500.00	1,248.6
	Candia, Javiar	12,575.40	12,575.40	288.5
	Cazares, Arnulfo	13,953.68	13,953.68	1,116.5
	Nakatani, Shumma	11,630.40	11,630.40	895.0
	Saennangchon, Nattaya	4,032.00	4,032.00	159.5
	Peralta, Ana	1,812.69	1,812.69	79.6
	Simachaya, Warancha	6,545.35	6,545.35	389.3
	Kitwikham, Kittiya	892.23	892.23	18.6
	Kankratoke, Jiapom	1,265.21	1,265.21	3.4
	Fonseca, Jamielyn	1,056.76	1,056.76	59.4
	Simachaya, Thatchanun	3,307.08	3,307.08	151.0
	Nathalia, Erika	8,141.50	8,141.50	535.3
7				
tals (see instructions)		143,706.00	143,706.39	8,367.7
		143,700,00	140,700,39	0,307.7



New York State Department of Taxation and Finance

Reference these numbers in all correspondence:

NYS-45 WEB

(04/23) V14



UI Employer registration number

Quarterly Combined Withholding, Wage Reporting, And Unemployment Insurance Re

	Jan 1 - Mar 31	✓ Apr 1 Jun 3		Oct 1 -	ear 23		
			ent health insurance be				
	a. Firs	t month	b. Second month	c. Third month			
		16	19		17 Disaster relief		
1		Part B	–Withholding ta	x (WT) inforn	nation		
70,75	2.00	12. Ne	w York State tax withh	eld	6,659.83		
		13. Ne	w York City tax withhel	d	3,627.74		
28,43	3.00	14. Yor	kers tax withheld		00,0		
12,31	9.00		al tax withheld d lines 12, 13, and 14)		10,287,57		
5.72	8.34	16. WT	WT credit from previous				
0,	0.0	qua	arter's return (see instr	0.00			
10	6.74		m NYS -1 payments m quarter		10,287.57		
			al payments d lines 16 and 17)		10,287.57		
	0.00	19. Tot	al Wt amounts due (if line 15 is			
5,83	5.08	gre	ater than line 18, enter	difference)	0.00		
	0.00	gre	al WT overpaid (if line ater than line 15, enter e and mark an X in 20a	difference	0.00		
5,83	5.08		oply to outstanding bilities and/or refund .	20b.	Credit to next quarter withholding tax		
		21. Tot	al payment due d lines 9 and 19)		5,835.08		
not	be us		set the amount d		ner tax		
			Summary				
70,75	2.00	Total nur	nber of employees		19		
		E Total tax withheld					

Withholding identification number				1	2 3	4	YY	
			Do you	offer depend	ent health insurance b	enefits to any emp	oloyee? Yes No 🗸	
Employer legal name:			If seaso	If seasonal employer, mark an X in the box				
KU-RA	KU NEW YORK INC.							
	Number of employees		a Fir	st month	b. Second month	c, Third month	h	
Enter the number of full-time and part-time covered employees who worked during or received pay for the week that includes the 12th day of each month.		4.11	16		C. Third month	45		
			10	19		17 Disaster relief		
Part A	-Unemployment insur	ance (UI) information		Part B	-Withholding to	ax (WT) inforn	mation	
1. Tota	al remuneration paid this quarter	17	0,752.00	12. Ne	w York State tax with	held	6,659.83	
2. Ren	nuneration paid this quarter to			13. Ne	w York City tax withhe	ble	3,627.74	
in e	xcess of the UI wage base	2	8,433.00	15. 146	W TOIK City tax within	sid	5,021.74	
	ce January 1		0,400.00	14. Yo	nkers tax withheld		0.00	
	ges subject to contribution btract line 2 from line 1)	14	2,319.00		al tax withheld		40.000.00	
4. ULC	contributions due			(ad	dd lines 12, 13, and 14	()	10,287.57	
		25 %	5,728.34		redit from previous arter's return <i>(see ins</i>		0.00	
	employment service fund					• Loseophysis oracidness	0.00	
(mu	Itiply line 3 x .00075)	Z SALA NO.	106.74		rm NYS -1 payments : quarter		10,287.57	
6a. Int	terest on contributions			18. To	al payments			
6b. UI	previously underpaid with				ld lines 16 and 17)		10,287.57	
	erest		0.00	19. Total Wt amounts due (if line 15 is				
7. Tota	al of lines 4, 5, 6a and 6b		5,835.08	gre	greater than line 18, enter difference)		0.00	
	, , , ,		2.000	20. Total WT overpaid (if line 18 is				
B. Ente	er UI previously overpaid		0.00		eater than line 15, ente re and mark an X in 20		0.00	
	al UI amounts due (if line 7 reater than line 8, enter differen	ce)	5,835.08	20a. Apply to outstanding 20b		. Credit to next quarter		
10. Tot	tal UI overpaid (if line 8 is greate	r		111	abilities and/or refund		withholding tax	
tha	an line 7, enter the difference)	·			tal payment due Id lines 9 and 19)		5,835.08	
				(at	id lilles 9 and 19)		0,000.00	
	* An overpaym	ent of either tax can	not be us	sed to off	set the amount	due on the otl	her tax.	
		Part C -	-Wage R	eporting	Summary			
	I UI total remuneration/gross es paid this quarter	17	0.752.00	Total nu	mber of employees		19	
			0,702.00	Total nu	liber of employees		13	
D Total gross wages or distribution			E Tota	tax withheld		10,287.57		
Sign yo	our return: I certify that the info	rmation on this return and a	iny attachme	ents is to the	best of my knowledg	e and belief true, o	correct, and complete.	
	er's signature			's name		Title		
	Date	Telephone number						
	04/23/2023 00:15:0							
		TI I						

Withholding identification number

1957		

Part D-Form NYS-1 corrections/additions

Web filed not applicable

Part E-Change of business information

•	on or trainers on or part or your account.	Yes ✓ ◀ No Part					
aid	Preparer's signature	Telephone number Date yours, if self-employed) Address		Mark an X if self -employed	Preparer's SSN or PTIN		
reparer's se	Preparer's firm name (or yours, if self-employed)				Preparer's EIN		
ayroll servic	ce name			Payroll sen	rice's EIN		
nemployn	nent insurance (UI) payment details	(Account saved 🗸					
ayment date 5/01/2023		Accour Busin	nt type ess checki	ng			
Bank name JPMORGAN CHASE BANK, NA			Bank routing number 021000021				
Account holder KU-RAKU NEW YORK INC			Account number XXXXX1030				
mount due (\$,835.08	nount due (\$) Payment amoun						
/ithholdin	g tax (WT) payment details	(Account saved					
ayment date		Accou	nt type				
ank name		Bank re	Bank routing number				
ccount holder		Accoun	Account number				
Amount due (\$) 0.00			Payment amount (\$)				
ransaction	n details						
Confirmation number 34926123699			Transaction date/time 04/23/2023 00:15 AM				
ubmitted by	COITA						

Part C

Employee Wage and Withholding

(04/23) V3

Employer legal name:

KU-RAKU NEW YORK INC.

Withholding identification number

957

(Showing 1 - 19 of 19 employees)

Social security number	b Last name, first name, middle initial	c UI total remuneration/gross wages paid this quarter	d Gross wages or distribution (see instructions)	e Total tax withheld
	Kongthoongmon, Autumporn	wages paid this quarter	(see instructions)	10.87
	Castro, Randy	4,249.75	4,249.75	143.16
	Fonseca, Jamielyn	2,376.40	2,376.40	49.46
	Trinidad, Duran	19,053.23	19,053.23	1,530.67
	Negita, Masahiko	10,500.00	10,500.00	404.90
	Negita, Yasuko	21,000.00	21,000.00	1,202.1
	Maki, Miho	20,500.00	20,500.00	1,990.0
	Candia, Javiar	15,132.81	15,132.81	372.8
	Cazares, Arnulfo	7,772.65	7,772.65	584.3
	Nakatani, Shumma	12,100.06	12,100.06	883.5
	Simachaya, Thatchanun	8,157.35	8,157.35	486.0
	Saennangchon, Nattaya	3,659.67	3,659.67	98.3
	Simachaya, Warancha	3,033.93	3,033.93	164.6
	Nathalia, Erika	9,000.32	9,000.32	568.1
	Kankratoke, Jiaporn			
	Andrade, Vincente	1,547.53	1,547.53	6.6
	Coache, Jose	8,161.26	8,161.26	724.8
	Francisco, Crystal	2,372.15	2,372.15	78.3
		5,984.81	5,984.81	364.4
	Galvez, Gabriel	14,247.26	14,247.26	624.0
tals (see instructions)		170,752.00	170,752.15	10,287.5

EXHIBIT 4

CPLR 6219 Garnishee's Statements signed by Yasuko and Masahiko under oath on August 29, 2022

ORNRALKI AWSRI, et al .		
	Plaintiffs.	AFFIDAVIT
-1 -		
YASUKO NEGITA.		
	Defendant. x	

- 1. Yasuko Negita, do hereby swear that the following is true and accurate:
 - 1. I am over eighteen (18) years old.
 - 2. I submit this affidavit pursuant to CPLR 6219 and the information contained herein is to the best of my knowledge.
 - 3. I do not have any assets except for a 2021 Lexus 350 which is under payment and a home located at 8 Floral Terrace, Tenafly, New Jersey 07670 which has two mortgages on it.
 - 4. I have several bank accounts as noted below:
 - a. TDBank account ending in 8803 approximate balance \$309.37
 - TDBank account ending in 4751 with my husband Masahiko approximate balance \$1541.70
 - c. Chase Bank checking account ending in 8365 approximate balance \$2592.03
 - d. Chase Bank saving account ending in 4082 approximate balance \$858.29
 - e. Bank of America checking account ending in 1997 approximate balance \$4004.89
 - f. Bank of America savings account ending in 7791 approximate balance \$1072.59
 - g. Wells Fargo checking account ending in 6675 approximate balance \$3405.53
 - h. Wells Fargo savings account ending in 9608 approximate balance \$1939.29
 - 5. I do not own any property or bank accounts located within this jurisdiction.
 - 6. I am not owed any money from any person or entity in any jurisdiction.

Dated and Signed



TASUKO NEGITA OB/29/22

RNRAT KEAWSRI, et a	1	
	Plaintiffs,	AFFIDAVIT
-V-		
SAHIKO NEGITA,		
	Defendant.	

- 1. I am over eighteen (18) years old.
 - 2. I submit this affidavit pursuant to CPLR 6219 and the information contained herein is to the best of my knowledge.
 - 3. I do not have any assets except for a 2015 Mercedes S550.
 - 4. I have the following creditors:
 - a. NYS Tax liability in the approximate amount of \$1,100,000.00.
 - b. Student Loans in the approximate amount of \$600,000.00.
 - c. Loan from Chase Bank in the approximate amount of \$150,000.00.
 - 5. I do not own any property or bank accounts located within this jurisdiction.

6. I am not owed any money from any person or entity in any jurisdiction.

Dated and Signed

MASAHIKO NEGITA

ORNRAT KEAWSR	l. et al	
	Plaintiffs.	AFFIDAVIT
-V-		
MIHO MAKI,		
	Defendant.	

- I. Miho Maki, do hereby swear that the following is true and accurate:
 - 1. I am over eighteen (18) years old.
 - 2. I submit this affidavit pursuant to CPLR 6219 and the information contained herein is to the best of my knowledge.
 - 3. I do not have any assets.
 - 4. I have several bank accounts as noted below:
 - a. TDBank account ending in 8160 approximate balance \$1801.42
 - b. TDBank account ending in 9815 approximate balance \$345.49
 - c. Capital One checking account ending in 6700 approximate balance \$3150.59
 - d. Capital One savings account ending in 9758 approximate balance \$1338.95
 - 5. I have the following credit card balances and debts:
 - a. Chase Freedom credit card ending in 5888 balance owed .44 cents
 - b. Chase Amazon card ending in 0812 balance owed \$199.80
 - Capitol One card ending in 2978 balance owed \$615.14.
 - d. I also owe an outstanding rent balance of approximately \$26,000.00
 - 6. I am not owed any money from any person or entity in any jurisdiction.
 - 7. I do not own any property or bank accounts located within this jurisdiction.

Signed and dated

08/29/22

EXHIBIT 5

The Decisions of the United States District Court for the Southern District of New York

USDC SDNY

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 12/19/2022	
ORNRAT KEAWSRI, et al.,	: : :	
Plaintiffs,	:	
-V-	:	17-cv-02406 (LJL)
RAMEN-YA INC. et al,	: : :	MEMORANDUM AND ORDER
Defendants.	:	SIBBR
	: X	

LEWIS J. LIMAN, United States District Judge:

Judgment Creditors¹ move, pursuant to Federal Rule of Civil Procedure 69 and New York Civil Practice Law and Rules ("CPLR") 5225(a) and (c), for an order (1) compelling Defendant Yasuko Negita ("Yasuko") to immediately pay Judgment Creditors, in a certified check made payable to Florence Rostami Law LLC, the funds in the investment account Yasuko owns at Merrill Lynch, Pierce, Fenner & Smith, a Bank of America Company ("Merrill"), with the account number ending 3453; (2) compelling Defendant Masahiko Negita ("Masahiko") to immediately pay Judgment Creditors, in a certified check made payable to Florence Rostami Law LLC, the funds in the investment account Masahiko owns at Merrill with the account number ending 3454; and (3) compelling Yasuko to transfer (and to execute and deliver any document necessary to effect such transfer) the real property she owns located at 309 Knickerbocker Road, Tenafly, New Jersey 07670 to the Marshal of the United States District Court for the District of New Jersey (the "Marshal") for sale by the Marshal, the proceeds of such sale to be applied toward payment of the judgment. Dkt. No. 583. Judgment Creditors also

¹ The Judgment Creditors are Ornrat Keawsri, Sachina Nagae, Takayuki Sekiya, Siwapon Topon, Pimparat Ketchatrot, Thiratham Raksuk, Parichat Kongtuk, Tanon Leechot, Thanatharn Kulaptip, Wanwise Nakwirot, Natcha Natatpisit, and Parada Mongkolkajit.

move for an order, pursuant to Federal Rule of Civil Procedure 69 and CPLR 5234, (1) granting Judgment Creditors priority over other creditors over the property of Judgment Debtors,² including the investment account of Yasuko and Masahiko until the judgment is satisfied; and (2) compelling Yasuko and Masahiko to pay the remaining balance of the judgment forthwith to the extent that the funds in the Merrill accounts are insufficient to satisfy the judgment. *Id.* The Court heard argument from both parties on this motion at a conference held on December 19, 2022.

Familiarity with the prior proceedings in this case is assumed. On August 8, 2022, the Court awarded Judgment Creditors \$687,825.81 in damages and penalties and \$1,110,807.82 in attorneys' fees and costs and post-judgment interest against Judgment Debtors jointly and severally. Dkt. No. 512. Judgment for this amount was entered by the Clerk of Court on August 10, 2022. Dkt. No. 514. To date, Judgment Debtors have not paid any portion of the Judgment. Dkt. No. 584 ¶ 7; Dkt. No. 607 ¶ 4.

"As a general rule, once a federal court has entered judgment, it has ancillary jurisdiction over subsequent proceedings necessary to 'vindicate its authority, and effectuate its decrees."

Dulce v. Dulce, 233 F.3d 143, 146 (2d Cir. 2000) (quoting Peacock v. Thomas, 516 U.S. 349, 354 (1996)). "This includes proceedings to enforce the judgment." Id.; see Jones v. Milk River Café, LLC, 2022 WL 3300027, at *3 (E.D.N.Y. Aug. 11, 2022); VFS Fin., Inc. v. Elias-Savion-Fox LLC, 73 F. Supp. 3d 329, 335 (S.D.N.Y. 2014). Under Federal Rule of Civil Procedure 69, state law generally supplies the procedures for enforcement of the judgment. The Rule provides: "The procedure on execution—and in proceedings supplementary to and in aid of judgment or execution—must accord with the procedure of the state where the court is located" Fed. R.

² The Judgment Debtors are Ramen-Ya Inc. ("RYI"), Yasuko, Masahiko, and Miho Maki.

Civ P. 69(a)(1).

CPLR 5225(a) provides in pertinent part:

Upon motion of the judgment creditor, upon notice to the judgment debtor, where it is shown that the judgment debtor is in possession or custody of money or other personal property in which he has an interest, the court shall order that the judgment debtor pay the money, or so much of it as is sufficient to satisfy the judgment, to the judgment creditor and, if the amount to be so paid is insufficient to satisfy the judgment, to deliver any other personal property, or so much of it as is of sufficient value to satisfy the judgment, to a designated sheriff.

CPLR 5225(c) provides that "[t]he court may order any person to execute and deliver any document necessary to effect payment or delivery."

Judgment Creditors have submitted evidence that Yasuko maintains an investment account at Merrill with the account number ending in 3453, that Masahiko maintains an investment account at Merrill with an account number ending in 3454, and that they collectively hold cash and other assets with a value of \$218,000. Dkt. No. 584 ¶ 8; Dkt. No. 602-1. The Court has authority under CPLR 5225(a) to order Yasuko and Masahiko to turn over the funds in those accounts to Judgment Creditors.

That the Merrill accounts were opened in New Jersey does not change this conclusion.³ "[A]s long as the New York court has personal jurisdiction over a defendant, regardless of whether it is the judgment debtor himself, or the garnishee bank, the court may order it to turn over out-of-state property to a judgment creditor." *McCarthy v. Wachovia Bank, N.A.*, 759 F. Supp. 2d 265, 275 (E.D.N.Y. 2011); *see also Koehler v. Bank of Bermuda Ltd.*, 911 N.E.2d 825, 830 (N.Y. 2009).

Judgment Debtors argue that CPLR 5205(c)(2) protects them from having to turn over

³ Originally, it was represented to the Court that the investment accounts were opened in New York County. Dkt. No. 584 ¶ 8. However, the Court was informed at the conference on December 19, 2022 that the accounts were actually opened in New Jersey.

assets in their retirement accounts. Dkt. No. 604 at 2.4 That provision shields certain retirement accounts from turnover or garnishment by creditors. C.P.L.R. 5205(c)(2); see Bellco Drug Corp. v. Bear Stearns & Co., Inc. 1999 WL 399903, at *2 (N.Y. Cty Court Nassau Cty Apr. 12, 1999) (holding that all trusts, custodial accounts, monies, assets or interests qualified as individual retirement accounts under Section 408 of the Internal Revenue Code are exempt from attachment to enforce a money judgment). However, it does not apply here. CPLR 5205 goes on to state that "[a]dditions to an asset described in paragraph two of this subdivision shall not be exempt from application to the satisfaction of a money judgment if (i) made after the date that is ninety days before interposition of the claim on which such judgment was entered, or (ii) deemed to be voidable transactions under article ten of the debtor and creditor law." C.P.L.R. 5205(c)(5); see VFS Fin., Inc. v. Elias-Savion-Fox LLC, 73 F. Supp. 3d 329, 348 (S.D.N.Y. 2014) ("Under the anti-garnishment statute, 'any contributions to [the debtor's SRA/IRA] account made after the date that is 90 days before the interposition of the claim on which the judgment herein was entered are not exempt from execution." (quoting Bellco, 1999 WL 399903, at *2)).

This case was filed on April 3, 2017. Notwithstanding Judgment Creditors' subpoena requiring Judgment Debtors to produce all account statements for accounts in which they had any legal or equitable interest from January 1, 2014 forward, Dkt No. 577-1, Judgment Debtors have not submitted any evidence that the funds in the two accounts were deposited prior to the date that is 90 days before April 3, 2017. Therefore, the exemption does not apply, and Judgment Debtors are required to, and will be ordered to, turn over the funds in the accounts.⁵

⁴ Judgment Debtors refer to CPLR 5405(c)(2). That provision has to do with the fees payable when a foreign judgment is filed in New York courts. The Court assumes that the reference to CPLR 5405(c)(2) is the product of a typographical error.

⁵ At the conference held on December 19, 2022, Judgment Debtors stated for the first time that they have evidence that certain funds in these accounts were deposited prior to the date that is 90

Judgment Creditors also ask for an order pursuant to CPLR 5225(a) compelling Yasuko to transfer (and to execute and deliver any document necessary to effect such transfer) the real property she owns located at 309 Knickerbocker Road, Tenafly, New Jersey 07670 to the Marshal of the United States District Court for the District of New Jersey (the "Marshal") for sale by the Marshal, the proceeds of such sale to be applied toward payment of the judgment. Dkt. No. 583. Judgment Debtors argue that the Court does not have jurisdiction over the property located in New Jersey, Judgment Creditors should seek relief from the United States District Court for the District of New Jersey where Judgment Creditors have domesticated the judgment, and Plaintiff do not advance any arguments over how they would have priority over the real property "especially since there are at least two banks who are primary creditors and have liens and mortgages on that real property." Dkt. No. 604 at 1. They also argue that New Jersey may have a homestead exemption. *Id.* Judgment Creditors respond that the Court has ancillary jurisdiction to enforce the judgment, that Yasuko has no basis to assert the rights of other lienholders who can assert their rights as appropriate, and that because the Court has personal jurisdiction over the Judgment Debtors it also has jurisdiction to order them to turn over property (real or personal) outside of the District (and outside the State). Dkt. No. 608 at 5-6.

The basis for the order that Plaintiffs seek, *i.e.*, CPLR 5225(a), only applies to a judgment debtors' "possession or custody of *money or other personal property* in which he has an

days before April 3, 2017. No such evidence was offered in connection with Judgment Debtors' opposition to this motion, which was filed approximately 20 days after Judgment Creditors filed their motion. Nor was any such evidence provided in connection with Judgment Creditors' subpoena which was originally returnable in August 2022. Dkt. No. 577-1. The Court makes this decision on the basis of the evidence and the record before it. To the extent that Judgment Debtors have new evidence, the proper vehicle within which to raise such evidence is in a motion for reconsideration, assuming that such motion satisfies the appropriate standards. It is not to reopen this motion or to require Judgment Creditors to respond to proffers offered on the fly during oral argument.

interest." C.P.L.R. 5225(a) (emphasis added). In other words, it can only be used to force a turnover of money and personal property of the Judgment Debtor. Here, however, Judgment Creditors are seeking a turnover order of Yasuko's real property and the deed to that real property, which are not subject to turnover by this statutory provision. *See DeFlora Lake Development Assocs., Inc. v. Hyde Park*, 689 F. App'x 93 (2d Cir. 2017) ("The disposition of real property is not subject to turnover order under CPLR § 5225"); *Bernard v. Lombardo*, 2016 WL 7377240, at * 2; *Gryphon Domestic VI, LLC v. APP Int'l Fin. Co.*, B.V., 836 N.Y.S.2d 4, 12 (1st Dep't 2007) (holding that real property was not subject to turnover order under CPLR 5225(a)).

Plaintiffs acknowledge that the "authority conferred to New York courts under CPLR 5225 is, by its terms, directed toward personal property," but note that the "Court can, in the circumstances of this matter, issue orders in aid of Judgment Creditors' rights to turnover of property held in other jurisdictions." Dkt. No. 608 at 6. Plaintiffs appear to point to CPLR 5240 as authority for this proposition. *Id.* This argument is unavailing. "CPLR 5240 permits a court at any time, on its own initiative or the motion of any interested person' to issue an order denying, limiting, conditioning, regulating, extending or modifying the use of any enforcement procedure'—and therefore grants the court substantial authority to order equitable relief."

Anderson Kill P.C. v. Anderson Kill P.C. as Escrowee, 17 N.Y.S.3d 381 (N.Y. Sup. Ct.), aff'd sub nom. Anderson Kill, P.C. v. Anderson Kill, P.C., 134 A.D.3d 552, 22 N.Y.S.3d 20 (2015).

However, the plain purpose of CPLR 5240 is "to prevent the brutal use of legal procedures against a judgment debtor." Midlantic Nat. Bank/N. v. Reif, 732 F. Supp. 354, 356 (E.D.N.Y. 1990); see Plymouth Venture Partners, II, L.P. v. GTR Source, LLC, 183 N.E.3d 1185, 1193 (N.Y. 2021). In other words, "[i]ts use is strictly to aid a party inequitably burdened by the use

of enforcement procedures by his adversary and to allow him an opportunity to either meet his legal obligation or postpone the enforcement of a judgment until such time that its enforcement is more properly sought." *Reif*, 732 F. Supp. 354, 356–57 (quoting *Kolortron Sys., Inc. v. Casey*, 688, 500 N.Y.S.2d 36, 36 (2d Dep't 1986)); *see also KLS Diversified Master Fund, LP. v. McDevitt*, 2022 WL 220058, at *5 (S.D.N.Y. Jan. 25, 2022). In light of this purpose of the statute, this Court declines to use CPLR 5240 to allow the Judgment Creditors to bypass the clear language of CPLR 5225(a) and obtain a turnover order regarding the New Jersey property. *See Adler v. Solar Power, Inc.*, 2018 WL 11447340, at *2 (S.D.N.Y. Apr. 9, 2018) ("New York courts have recognized that concerns of comity and sovereignty render attachment of real property located outside of the state inappropriate at the very least.").

Thus, Plaintiffs' request for a turnover order of Yasuko's property in New Jersey pursuant to CPLR 5225(a) or CPLR 5240 is denied, without prejudice to Plaintiffs providing a different, valid basis for such an order.

With respect to the requested order under CPLR 5234, the motion of Judgment Creditors for an order compelling Yasuko and Masahiko to pay the remaining balance of the judgment forthwith to the extent that the funds in the Merrill accounts are insufficient to satisfy the judgment is denied. "[A] judgment creditor seeking a turnover order must identify the particular property as to which it seeks a turnover, whether a specific bank account, account receivable, or office furniture." *Bernardo v. Lombardo*, 2016 WL 7377240, at *2 (S.D.N.Y. Nov. 23, 2016) (internal citations and quotations omitted). *See also Mattel, Inc. v. www.fisher-price.online*, 2022 WL 2801022, at *14 (S.D.N.Y. July 18, 2022) ("Courts in this District have denied plaintiffs' section 5225 motions without prejudice when plaintiffs fail to identify the particular property as to which they seek a turnover.").

Judgment Creditors argued at the December 19, 2022 conference that they should be

excused from the requirement that they identify the particular property as to which they seek a

turnover as Judgment Debtors have not been forthcoming about the nature and extent of their

U.S. property and assets. However, where a judgment debtor is not forthcoming about his or her

assets in response to subpoenas and document requests, the proper remedy is a motion for

contempt sanctions for failure to comply with court orders regarding postjudgment discovery,

including for criminal contempt if the standards for such relief are met. It is not, in the first

instance, a blanket order requiring the judgment debtor to turn over all of his or her assets

without identifying those assets.

Finally, the motion of Judgment Creditors under CPLR 5234 for an order granting

Judgment Creditors priority over other creditors over the property of Judgment Debtors is denied

as not ripe for consideration. Judgment Creditors have not, at this point, identified any particular

creditor who has claimed priority to any of Judgment Debtors' property. Judgment Debtors

represented at argument that there is no competing turnover order with respect to the investment

accounts. Judgment Creditors may reapply for such relief in the event that this issue later

becomes ripe.

CONCLUSION

The motion to enforce the judgment is GRANTED IN PART and DENIED IN PART.

The Clerk of Court is respectfully directed to close Dkt. No. 583.

SO ORDERED.

Dated: December 19, 2022

New York, New York

LEWIS J. LIMAN

United States District Judge

8

LISDC SDNY

UNITED STATES DISTRICT OF NO		X	DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 1/24/2023
ORNRAT KEAWSRI, et al.,		: '	
Pl	laintiffs,	:	
		:	17-cv-02406 (LJL)
-V-		:	
		:	MEMORANDUM AND
RAMEN-YA INC. et al,		:	<u>ORDER</u>
		:	
D	efendants.	:	
		:	
		X	

LEWIS J. LIMAN, United States District Judge:

The RYI Defendants,¹ as Judgment Debtors, move for reconsideration of this Court's order of December 19, 2022, ordering Yasuko and Masahiko Negita to turn over funds in Merrill accounts ending in 3453 and 3454 (together, "Merrill Accounts" and, each individually, "Merrill Account"). The RYI Defendants argue, based on purportedly newly-discovered evidence, that all but \$11,451.26 in the account ending 3454 is exempt under C.P.L.R. § 5205(c)(2) and all but \$12,932.19 in the account ending 3455 is exempt under that same provision of the C.P.L.R. Dkt. No. 627. For the reasons that follow, the motion is denied.

BACKGROUND

Familiarity with the prior proceedings in this matter and the Court's prior opinions and orders are assumed. Plaintiffs and Judgment Creditors brought this action under the Fair Labor Standards Act ("FLSA") and New York Labor Law ("NYLL") against the RYI Defendants,

¹ The RYI Defendants are Yasuko Negita ("Yasuko"), Masahiko Negita ("Masahiko"), Miho Maki ("Maki"), and Ramen-Ya Inc. RYI Defendants have occasionally been referred to as the RYI Judgment Debtors and Plaintiffs occasionally have been referred to as the Judgment Creditors. For convenience, the Court refers to "RYI Defendants" and to "Plaintiffs" in this Memorandum and Order.

Y&S International Corporation ("Y&S"), Kenji Kora ("Kora"), and others. Dkt. No. 182. On August 8, 2022, the Court awarded Plaintiffs \$687,825.81 in damages and penalties, \$1,110,807.82 in attorneys' fees and costs, as well as post-judgment interest, and held that the RYI Defendants as well as Y&S and Kora are jointly and severally liable for all amounts due. Dkt. No. 512. The clerk entered judgment in that amount on August 10, 2022. Dkt. No. 514 ¶ 8.

Since then, Plaintiffs have sought to collect from the RYI Defendants, as well as Y&S and Kora. On August 15, 2022, Plaintiffs served on each of the RYI Defendants a subpoena duces tecum and subpoena ad testificandum compelling their attendance and requiring them to produce certain documents related to the nature, extent, and location of their assets. Dkt. No. 577 ¶ 6. The subpoenas served on Yasuko, Negita, and Maki requested, among other things, financial account information, both for accounts held in the United States and in any foreign country. *Id.* ¶ 7.

After the subpoenas were served, RYI Defendants sought various deadline extensions for the production of documents as well as for the depositions of the RYI Defendants. *Id.* ¶¶ 8–11. On August 25, 2022, the Court ordered the RYI Defendants to deliver to counsel for Plaintiffs "all documents identified in the subpoena duces tecum and subpoena ad testificandum served on each of the RYI Defendants." Dkt. No. 523. On August 25, 2022, Plaintiffs agreed to extend the deadline for RYI Defendants to produce all responsive documents until August 29, 2022. Dkt. No. 577 ¶ 12. On August 29, 2022, the RYI Defendants failed to produce responsive documents and instead asserted various objections to each category of documents set forth in the subpoenas. *Id.* ¶ 15.

Due to the RYI Defendants' refusal to produce responsive documents, Plaintiffs filed a motion on August 31, 2022 requesting an order (i) finding the RYI Defendants in contempt of

court, (ii) compelling the RYI Defendants to produce all documents and information sought by Plaintiffs, and (iii) imposing sanctions against each of the RYI Defendants and their respective counsel for their contempt of court, among other relief. Dkt. No. 530. The Court held a conference on September 27, 2022, regarding that request. Dkt. No. 560. At that conference, the Court granted Plaintiffs' motion in part and denied it in part. The Court found that "Plaintiffs have established by clear and convincing evidence that each of the Defendants have violated the Court's rulings through Defendants' refusal to produce documents and information sought by Plaintiffs." *Id.* at 1–2. The Court therefore imposed sanctions on RYI Defendants to compel compliance. *Id.* at 2.

Plaintiffs made their motion to enforce the judgment and for turnover on November 18, 2022, asking for the turnover of funds in the Merrill Accounts. Dkt. No. 583. In their declaration in support of that motion, Plaintiffs offered evidence that Yasuko owned the Merrill Account ending in 3453 and Masahiko owned the Merrill Account ending in 3454. Dkt. No. 584. At a conference with the Court on November 23, 2022, counsel for Plaintiffs foreshadowed the issue that is now raised on this motion. During colloquy with the Court on the status of the RYI Defendants' compliance with the Court's orders and the schedule with respect to the motion to enforce the judgment and for turnover, Plaintiffs' counsel stated that the RYI Defendants had the "responsibility to produce documents with respect to the moneys that were deposited into the [Merrill] account because they may have the right to withhold some of those moneys pursuant to the rules" and noted that the RYI Defendants had not done so. Dkt. No. 619 at 59. She stated: "I'm just letting them know, they need to provide the specifics with respect to the account." *Id.* The Court responded: "Why isn't the appropriate procedure for them, in their opposition papers, to indicate the amounts that need to be withheld under New York State law ... [and] [i]f they

don't indicate amounts that need to be withheld, then they would be considered [to have] waived that issue." *Id.* at 59–60. The Court asked counsel for the RYI Defendants whether he objected to proceeding in that manner and he responded that he did not. *Id.* at 60. The Court then gave the RYI Defendants the time they requested to respond to Plaintiffs' motion. *Id.*

On December 8, 2022, the RYI Defendants submitted their response to the motion. Dkt. No. 604. The response argued broadly (and incorrectly) that C.P.L.R. § 5205(c)(2) shielded retirement accounts from turnover and any monies in the Merrill Accounts should be withheld in full. Id. In their reply memorandum dated December 15, 2022, Plaintiffs correctly pointed out that C.P.L.R. § 5205(c) does not protect funds in retirement accounts if deposited after the date that is ninety days before the commencement of a lawsuit. Dkt. No. 608 at 3. Plaintiffs also argued that the RYI Defendants had failed to produce evidence that the Merrill Accounts were opened prior to January 3, 2017 (i.e., 90 days prior to the commencement of their lawsuit), or that deposits were made into the accounts prior to that date, such that monies in the accounts would be exempt. Dkt. No. 608 at 4. By order of December 16, 2022, the Court set a hearing for December 19, 2022 on the motion to enforce the judgment and for turnover and directed that the parties be prepared to present any evidence that they wished the Court to consider on that motion. Dkt. No. 609. RYI Defendants did not submit any evidence at the hearing on December 19, 2022, but they argued that monies in the accounts had been deposited prior to January 3, 2017 and were therefore exempt.

The Court's order of December 19, 2022 granted Plaintiffs' motion, pursuant to C.P.L.R, § 5225(a), to compel Yasuko to immediately pay Plaintiffs the funds in the Merrill Account ending 3453 and Masahiko to immediately pay Plaintiffs the funds in the Merrill Account ending 3454. Dkt. No. 616 at 4. The Court rejected the RYI Defendants' argument that C.P.L.R.

§ 5205(c)(2) shielded the assets in the Merrill Accounts from being turned over to satisfy the judgment. *Id.* at 3–4. The Court noted that while that provision shields retirement accounts from turnover or garnishment by creditors, it does not apply to additions to a retirement account made after the date that is ninety days before interposition of the claim on which judgment was entered. *Id.* That date here would have been January 3, 2017 because Plaintiffs' complaint was filed on April 3, 2017. The Court wrote:

Notwithstanding Judgment Creditors' subpoena requiring Judgment Debtors to produce all account statements for accounts in which they had any legal or equitable interest from January 1, 2014 forward, Dkt. No. 577-1, Judgment Debtors have not submitted any evidence that the funds in the two accounts were deposited prior to the date that is 90 days before April 3, 2017. Therefore, the exemption does not apply, and Judgment Debtors are required to, and will be order to, turn over the funds in the accounts.

Id. at 4. In a footnote to its Memorandum and Order, the Court noted:

At the conference held on December 19, 2022, Judgment Debtors stated for the first time that they have evidence that certain funds in these accounts were deposited prior to the date that is 90 days before April 3, 2017. No such evidence was offered in connection with Judgment Debtors' opposition to this motion, which was filed approximately 20 days after Judgment Creditors filed their motion. Nor was any such evidence provided in connection with Judgment Creditors' subpoena which was originally returnable in August 2022. Dkt. No. 577-1. The Court makes this decision on the basis of the evidence and the record before it. To the extent that Judgment Debtors have new evidence, the proper vehicle within which to raise such evidence is in a motion for reconsideration, assuming that such motion satisfies the appropriate standards. It is not to reopen this motion or to require Judgment Creditors to respond to proffers offered on the fly during oral argument.

Id. at 4 n.5.

DISCUSSION

The RYI Defendants argue that the Court should reconsider its December 19, 2022 order "because newly submitted evidence clearly demonstrates that majority [sic] of the funds in the Merrill accounts were deposited prior to January 3, 2017." Dkt. No. 627 at 2. In support of that motion, they submit bank statements that show that Masahiko made deposits totaling \$11,451.26

to the account ending 3454 since 2017 and Yasuko made deposits to the account ending in 3452 totaling \$12,932.19 since 2017. *Id.* They claim only \$14,000 (\$7,000 each) was deposited after January 3, 2017. *Id.* The RYI Defendants do not object to the turnover of the \$14,000 but argue that the remainder of the funds in the accounts are exempt. Id. at 4. Plaintiffs respond that reconsideration is not appropriate because the RYI Defendants do not identify any newly discovered facts that they could not have located without reasonable diligence: Yasuko and Masahiko were aware months before the motion for turnover that the account statements were relevant to the identification of assets when those account statements were subpoenaed on August 15, 2022, yet in response to those subpoenas they produced only one page of their respective Merrill Accounts for the April to June 2022 time period. Dkt. No. 628 at 5. Plaintiffs also argue that the December 19, 2022 order should not be reconsidered on grounds of "manifest injustice"; that basis for relief is not available when the motion is based on newly-discovered evidence and there is no manifest injustice in requiring the RYI Defendants to turn over funds in the Merrill Accounts that they earned from their violations of FLSA and the NYLL, particularly when they could have asserted evidence to support the exemption far earlier and in response to Plaintiffs' motion but failed to do so. *Id.* at 9–11.

The RYI Defendants style their motion as one for reconsideration. "A motion for reconsideration should be granted only if the movant identifies 'an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice." *Spin Master Ltd. v. 158*, 2020 WL 5350541, at *1 (S.D.N.Y. Sept. 4, 2020) (quoting *Kolel Beth Yechiel Mechil of Tartikov, Inc. v. YLL Irrevocable Tr.*, 729 F.3d 99, 104 (2d Cir. 2013)). Reconsideration of a court's previous order is an "extraordinary remedy to be employed sparingly in the interests of finality and conservation of scarce judicial resources." *In*

re Health Mgmt. Sys., Inc. Sec. Litig., 113 F. Supp. 2d 613, 614 (S.D.N.Y. 2000). The standard for granting a motion for reconsideration "is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked—matters, in other words, that might reasonably be expected to alter the conclusion reached by the Court." Shrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995). A motion for reconsideration is not a "vehicle for relitigating old issues, presenting the case under new theories, securing a rehearing on the merits, or otherwise taking a second bite at the apple." Spin Master, 2020 WL 5350541, at *1 (quoting Analytical Surveys, Inc. v. Tonga Partners, L.P., 684 F.3d 36, 52 (2d Cir. 2012)).

In opposition, Plaintiffs make reference to the standards for relief under Federal Rule of Civil Procedure 60(b). The rule addresses the standards and procedures for the court to relieve a party "from a final judgment, order, or proceeding." Fed. R. Civ. P. 60(b). Federal Rule of Civil Procedure 60(b)(2) provides that within a year of the entry of the judgment or order or the date of the proceeding, a party may move for relief based on "newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b)." Fed. R. Civ. P. 60(b)(2). The Second Circuit has repeatedly held that:

To prevail on a motion for relief from a judgment on the grounds of newly discovered evidence, a party must establish that: "(1) the newly discovered evidence was of facts that existed at the time of trial or other dispositive proceeding, (2) the movant must have been justifiably ignorant of them despite due diligence, (3) the evidence must be admissible and of such importance that it probably would have changed the outcome, and (4) the evidence must not be merely cumulative or impeaching."

Metzler Inv. Gmbh v. Chipotle Mexican Grill, Inc., 970 F.3d 133, 146–47 (2d Cir. 2020) (quoting United States v. Int'l Bhd. of Teamsters, 247 F.3d 370, 392 (2d Cir. 2001)).²

² Federal Rule of Civil Procedure 60(b)(6) also provides that the court may relieve a party of a final order, at any time, for "any other reason that justifies relief." Fed. R. Civ. P. 60(b)(6).

In the case at hand, the RYI Defendants have not shown "new evidence" or "manifest injustice" justifying reconsideration of this Court's December 19 order or relief under Rule 60(b)(2). The RYI Defendants' motion is based on the contention that the majority of the funds in the Merrill Accounts were deposited prior to January 3, 2017. But that information was available to the RYI Defendants at the time that they filed their opposition to the motion to enforce the judgment and for turnover. It is based on deposits made by Yasuko and Masahiko themselves. There is no reason, and the RYI Defendants offer none, why, if they believed that the funds were exempt, they could not have submitted an affidavit or a declaration in connection with their opposition, explaining that the funds were exempt. Nor were the account statements new evidence that was not previously available to the RYI Defendants before the Court entered its order. The account statements were requested by Plaintiffs as early as August 2022. They were the subject of an order to produce dated August 25, 2022, with a deadline of August 29,

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[&]quot;Rule 60(b)(6) [is] a catch-all provision that 'is properly invoked only when there are extraordinary circumstances justifying relief, when the judgment may work an extreme and undue hardship, and when the asserted grounds for relief are not recognized in clauses (1)–(5) of the Rule." Pastor v. P'ship for Children's Rts., 856 F. App'x 343, 344–45 (2d Cir. 2021) (quoting Metzler Inv. GmbH v. Chipotle Mexican Grill, Inc., 970 F.3d 133, 143 (2d Cir. 2020)); see Obra Pia Ltd. v. Seagrape Invs. LLC, 2021 WL 1978545, at *2 (S.D.N.Y. May 18, 2021) (same). In other words, "if the reasons offered for relief from judgment can be considered in one of the more specific clauses of Rule 60(b), such reasons will not justify relief under Rule 60(b)(6)." Castro v. Bank of New York Mellon, 852 F. App'x 25, 30 (2d Cir. 2021) (quoting Int'l Brotherhood of Teamsters, 247 F.3d at 391–92). "The burden of proof on a Rule 60(b) motion is on the party seeking relief from the earlier judgment or order." Obra Pia Ltd., 2021 WL 1978545, at *2 (quoting In re Gildan Activewear, Inc. Sec. Litig., 2009 WL 4544287, at *2 (S.D.N.Y. Dec. 4, 2009)).

Here, Federal Rule of Civil Procedure 60(b)(6) does not apply because "[a]lthough [the RYI Defendants] failed to carry [their] burden under" Rule 60(b)(2), as explained *supra* pp. 8–9, their "reasons for seeking relief from the judgment fell within" that more specific clause "thereby disqualifying [them] from obtaining relief under Rule 60(b)(6)." *Castro*, 852 F. App'x at 30. The RYI Defendants also did not invoke this catch-all provision in their motion papers or explain why it would apply and thus separately have not met their burden. *See Obra Pia Ltd.*, 2021 WL 1978545, at *2 (noting burden is on person moving for Rule 60(b) relief).

2022. The RYI Defendants were held in contempt in September 2022 for failure to produce the account statements with additional sanctions running each day in which they were not produced, Dkt. No. 560, the Court gave the RYI Defendants notice in late November 2022 of the need to submit specific information to the Court justifying any withholdings under New York State law as to the Merrill Accounts and then gave them the time they needed to submit their opposition to the motion, Dkt. No. 619 at 59–60, and the Court directed the RYI Defendants on December 16, 2022 to bring to Court any evidence they intended to rely upon in opposition to the motion, Dkt. No. 609. The RYI Defendants failed to produce the account statements in response to any of these requests or demands. To the contrary, it was not until December 19, 2022—months after the RYI Defendants had been ordered to produce the account statements—that the RYI Defendants even requested the account statements from their representative at Merrill. Dkt. No. 629-2 at 5. And then the account representative was able to readily and quickly produce the account statements.

The account statements thus are not newly discovered evidence or new evidence. They are evidence that the RYI Defendants always had available to them with the sending of an email. They simply decided not to request them in response to Plaintiffs' subpoenas and the Court's prior orders. To grant the motion to reconsider now, on the basis of the account statements, would be to reward the RYI Defendants for their own intransigence. A party may not obtain relief based upon evidence that it could have offered earlier but, either through negligence or deliberate sandbagging, chose not to offer. To do so neither satisfies Local Rule 6.3 nor Rule 60(b).

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Because the RYI Defendants' request for relief fails regardless, the Court does not decide whether Local Rule 6.3 (for motions for reconsideration or reargument) or Federal Rule of Civil Procedure 60(b) applies.³

CONCLUSION

The motion for reconsideration is DENIED.

The Clerk of Court is respectfully directed to close Dkt. No. 627.

SO ORDERED.

Dated: January 24, 2023

New York, New York

LEWIS J. LIMAN United States District Judge

³ Rule 60(b) does not apply to interlocutory orders. *See* Fed. R. Civ. P. 60(b), advisory committee notes to 1946 amendment ("The addition of the qualifying word 'final' emphasizes the character of the judgments, orders or proceedings from which Rule 60(b) affords relief, and hence interlocutory orders are not brought within the restrictions of the rule, but rather they are left subject to the complete power of the court rendering them to afford relief from them as justice requires."); *see also Stern v. Highland Lake Homeowners*, 2021 WL 1164718, at *4 (S.D.N.Y. Mar. 26, 2021) (Rule 60(b) not applicable to preliminary injunctions which are not final judgments or orders); *Bridgeforth v. Mckeon*, 2012 WL 3962378, at *2 (W.D.N.Y. Sept. 10, 2012) (Rule 60(b) not applicable to interlocutory order).